

Notice of Allowability

Application No.

10/609,331

Examiner

Amea A. Shah

Applicant(s)

DEATON ET AL.

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- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE of 5/27/08 & Ex. Amdt of 7/23/08.
2. ☒ The allowed claim(s) is/are 1-20,96 and 97.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 7/18/08.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Jeffrey A. Smith/
Jeffrey A. Smith
SPE, AU 3625

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Randy Baldwin on July 18, 2008.

The application has been amended as follows:

In the Claims:

Claim 1. (*Currently amended*) A method for use in marketing, comprising:

detecting, at a remote computer, product purchase information of a plurality of different retailers from points-of-sale associated with the respective retailers, the product purchase information including at least a purchase price information comprising at least the price at which at least one item was purchased, at the plurality of retailers the remote computer located remote from the retailers;

receiving, at the remote computer, a shopping list of a customer, the shopping list including at least one desired item; and

correlating, at the remote computer, the product purchase information and the purchase price with the at least one desired item; and

in response to receiving the shopping list, initiating communication~~{{,}}~~ to the customer by via the remote computer the correlated information including at least the shopping list, the product purchase information, and the purchase price of~~purchase price information associated with the at least one item from the shopping list for the plurality of retailers, wherein the purchase price information includes at least the prices that the at least one item from the shopping list was purchased for from the plurality of retailers.~~

Claim 4. *(Currently amended)* The method of Claim 1, wherein receiving a shopping list of a customer comprises receiving an electronic mail message including the at least one desired item.

Claim 8. *(Currently amended)* The method of Claim 7, and further comprising transmitting to the customer a proposed shopping list prior to receiving the shopping list including at least one desired item.

Claim 11. *(Currently amended)* The method of Claim 1, and further comprising initiating, by the remote computer, communication of an incentive associated with the at least one desired item to the customer in response to receiving the shopping list.

Claim 12. *(Currently amended)* The method of Claim 11, wherein the incentive comprises a discount on the at least one desired item.

Claim 13. *(Currently amended)* The method of Claim 11, wherein the incentive comprises a discount on a product competitive with the at least one desired item.

Claim 14. *(Currently amended)* The method of Claim 13, and further comprises comparing, by the computer, the price of the at least one desired item at a first retailer of the plurality of retailers to the price of the competitive item at the first retailer, the price of the at least one desired item and the competitive item at the first retailer determined from the product purchase information, and wherein the incentive comprises a discount sufficient to lower the effective price on the competitive item to match or beat the price of the at least one desired item.

Claim 16. *(Currently amended)* The method of Claim 11, and further comprising comparing, by the computer, the price of the at least one desired item at a first retailer of the plurality of retailers to the lowest purchase price at which the at least one desired item was purchased from the first retailer within a predetermine time period, the lowest purchase price determined from the product purchase information, and wherein the incentive comprises a discount sufficient to lower the effective price at the first retailer on the at least one desired item to match or beat the lowest purchase price.

Claim 96. *(Currently amended)* A remote computer comprising:

a processor;

a memory accessible by the processor; and

a computer program stored in the memory, the computer program operable to be executed on the processor and further operable to:

detect product purchase information of a plurality of different retailers from points-of-sale associated with the respective retailers located remotely from the remote computer, the product purchase information including at least a purchase price information comprising at least the at which at least one item was purchased from each of the retailers;

receive a shopping list of a customer, the shopping list including at least one desired item; and

correlate the product purchase information and the purchase price with the at least one desired item; and

in response to receiving the shopping list, initiate communication to the customer ~~by via the remote computer~~ the correlated information including at least the shopping list, the product purchase information, and the purchase price of purchase price information associated with the at least one item from the shopping list for the plurality of retailers, wherein the purchase price information includes at least the prices that the at least one item from the shopping list was purchased for from the plurality of retailers.

Claim 97. *(Currently amended)* An article comprising a medium for storing instructions that enable a remote computer to:

detect product purchase information of a plurality of different retailers from points-of-sale associated with the respective retailers located remotely from the remote computer, the

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product purchase information including at least a purchase price information comprising at least the price at which at least one item was purchased at each of the retailers;

receive a shopping list of a customer, the shopping list including at least one desired item;
and

correlate the product purchase information and the purchase price with the at least one desired item; and

in response to receiving the shopping list, ~~initiate communication~~ communicate to the customer ~~by~~ via the remote computer the correlated information including at least the shopping list, the product purchase information, and the purchase price of purchase price information associated with the at least one item from the shopping list for the plurality of retailers, wherein the purchase price information includes at least the prices that the at least one item from the shopping list was purchased for from the plurality of retailers.

REASONS FOR ALLOWANCE

Claims 1-20, 96 and 97 are allowed.

The following is an examiner's statement of reasons for allowance:

Claim 1.

The prior art of record neither anticipates nor fairly and reasonably renders obvious the method of claim 1 of detecting, at a remote computer, product purchase information of a plurality of different retailers from points-of-sale associated with the respective retailers, *the product purchase information including at least a purchase price at which at least one item was purchased*, the remote computer located remote from the retailers; receiving, at the remote computer, a shopping list of a customer, the shopping list including at least one desired item; *correlating, at the remote computer, the product purchase information and the purchase price with the at least one desired item*; and in response to receiving the shopping list, initiating communication to the customer via the remote computer the correlated information including at least the shopping list, the product purchase information, and the purchase price.

The most remarkable prior art of record, cited by applicant, is Reuhl et al., US 5,873,069 (hereafter referred to as "Reuhl"). Reuhl teaches a method for use in marketing, comprising: detecting, at a remote computer, product purchase information of a plurality of stores, the product purchase information including at least price information at which an item can be purchased, the remote computer located remote from the stores (col. 3, lines 18-28, col. 8, lines

64-68 and col. 10, lines 15-32 – note that the product purchase information is detected “enterprise-wide (e.g. a retailer with many locations in many market areas),” as well as from competitors, thereby comprising a plurality of retail stores); receiving, at the remote computer, a shopping list of a customer, the shopping list including at least one desired item (col. 10, lines 54-61 – note the shopping list of at least one item is the entering of product identification code by the user); correlating the price information with the at least one desired item (col. 11, lines 11-23); and in response to receiving the shopping list, initiating communication to the customer via the remote computer, the correlating information including the shopping list and price information associated with the at least one item from the shopping list for the plurality of stores (Fig. 8 and col. 11, lines 11-23).

While Reuhl teaches detecting product purchase information including price information by searching a database once prices are inputted (col. 16, lines 5-27), Reuhl does not anticipate nor fairly and reasonably render obvious detecting the purchase price information from a plurality of different retailers from points-of-sale associated with the respective retailers, the product purchase information including at least a purchase price at which at least one item was purchased, and correlating that purchase price with the shopping list.

Another remarkable prior art, previously cited, is Christianson et al., 6,102,969 (hereafter referred to as “Christianson”). Christianson, in the same field of endeavor and/or pertaining to the same issue, teaches the use of “shopbots” for detecting product purchase information, including price information at which an item can be purchased, of a plurality of different retailers from points-of-sale associated with the respective retailers (Fig. 2A and col. 6, lines 14-42 - note

that the "shopbot," similar to a web-crawler, detects price information from various retailer websites, i.e. points-of-sale, by querying and receiving responses through a remote computer).

However, Christianson does not anticipate nor fairly and reasonably render obvious the product purchase information including at least a purchase price at which at least one item was purchased, and correlating that purchase price with the shopping list.

Another notable prior art is mySimon.com, as described in "Shoppers Can Save Time and Money, Find Holiday Gift Suggestions," PR Newswire, Nov. 30, 1998, pg. 0988 (author unknown), that allows shoppers to use a shopping bot to search for products and compare prices. However, mySimon does not anticipate nor fairly and reasonably render obvious the product purchase information including at least a purchase price at which at least one item was purchased, and correlating that purchase price with the shopping list.

The prior art taken as a whole does not anticipate nor fairly and reasonable render obvious the product purchase information including at least a purchase price at which at least one item was purchased, even though it teaches detecting price information at which an item can be purchased. As applicant argues in its Remarks of May 27, 2008, and as examiner agrees, the price information at which an item can be purchased, i.e. an offer price or advertised price, is distinct from a purchase price at which an item was actually purchased; advertised or offer prices may not have resulted in actual sales. Applicant directs the specification repeatedly throughout to only to actual purchase prices at which items were purchased. As applicant states in the specification, e.g. ¶¶ 0009 and 0097, using the actual purchase price instead of an offer or

advertised price enables manufacturers and other entities to better price and market the products offered. Thus, the claim as a whole is not anticipated nor rendered obvious by the prior art.

Claims 2-20.

Claims 2-20 are dependencies of independent claim 1 and are allowable over the prior art for the reasons identified above with respect to claim 1.

Claim 96.

Claim 96 recites an apparatus comprising a processor, a memory and a computer program operable to perform functions consistent with and parallel to the limitations of the system of claim 1. This apparatus is allowable over the prior art for reasons consistent with those identified above with respect to claim 1.

Claim 97.

Claim 97 recites an article comprising a medium for storing instructions that enable a computer to perform functions consistent with and parallel to the limitations of the system of claim 1. This apparatus is allowable over the prior art for reasons consistent with those identified above with respect to claim 1.

EXAMINER'S COMMENT

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 27, 2008, has been entered.

Support for the examiner's amendments can be found in the specification filed August 17, 2007, at ¶0097, for example.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ameer A. Shah whose telephone number is (571)272-8116. The examiner can normally be reached on Flex-time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey A. Smith/
Supervisory Patent Examiner, Art Unit
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AAS

July 23, 2008